

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JUANITA CADENA

V.

PETSMART, INC.

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CIVIL ACTION NO.

5:21-cv-00091

**DEFENDANT PETSMART, INC.'S NOTICE OF REMOVAL**

1. PETSMART, INC. (referred to in this pleading as “PetSmart”) is the defendant in a civil action filed on December 15, 2020 in the 224<sup>th</sup> District Court of Bexar County, Texas styled Juanita Cadena v. PetSmart, Inc. with a Cause Number of 2020CI24027. In this lawsuit, Juanita Cadena (“Cadena”) alleges that she was an invitee at a PetSmart store in San Antonio when she “...slipped on a clear liquid that was on the floor...” and fell, and as a result of her fall, she “...suffered severe injuries and damages...” [paragraphs IV. and V. of Plain. Orig. Pet.].

2. The plaintiff in this action – again, Cadena - pled in her Plaintiff’s Original Petition that she was a resident of San Antonio, Bexar County, Texas [paragraph II.] at the time of the filing of this lawsuit. The Plaintiff’s Original Petition also alleges that “Plaintiff in good faith pleads the value of this case is over one million dollars (\$1,000,000.00).” [paragraph IX]. PetSmart was served with the Plaintiff’s Original Petition on January 15, 2021.

3. This Notice of Removal is timely filed under 28 U.S.C. Section 1446 (b) in that it is filed within 30 days of the date of service of this lawsuit on the defendant and within one year of the commencement of the action in Bexar County District Court.

4. The district courts of the United States have original jurisdiction over this case based

on diversity of citizenship of the parties in that PetSmart, Inc. is now and was at the time the action was commenced in Bexar County District Court diverse in citizenship from the plaintiff. Furthermore, PetSmart, Inc. is not now (and was not at the time the action was commenced in Bexar County District Court) a citizen of the State of Texas. In this regard, PetSmart is a corporation incorporated under the laws of the State of Delaware and has its principal place of business - now and at the time the action was commenced in Bexar County District Court - in the State of Arizona. Cadena was a citizen of the State of Texas at the time this action was commenced in Bexar County District Court and PetSmart has no reason to believe that Cadena is not a citizen of the State of Texas now (and PetSmart pleads that Cadena is a citizen of the State of Texas now).

5. As stated in paragraph 2, the amount in controversy in this action exceeds \$75,000.00 exclusive of interest and costs.

6. Removal of this action is proper under 28 U.S.C. Section 1441 because it is a civil action brought in state court and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. Section 1332 because the plaintiff and the defendant are diverse in citizenship.

7. Attached as Exhibit "1" is Cadena's live pleading in State Court (without the discovery requests attached) and as Exhibit "2" is PetSmart's live pleading in State Court. Attached as Exhibit "3" is the executed citation in the State Court.

8. Pursuant to Rule 38 of the Federal Rules of Civil Procedure, PetSmart demands a jury trial on each of the issues alleged in Plaintiff's Original Petition. A jury was demanded (and a jury fee paid) in Bexar County District Court by PetSmart pursuant to the rules of the State Court for jury demands prior to the removal of this action.

WHEREFORE, PetSmart, Inc. pursuant to the statutes stated in this notice and in conformance with the requirements set forth in 28 U.S.C. Sec. 1446 remove this action from the 224<sup>th</sup> District Court of Bexar County, Texas to this Court.

Respectfully submitted,

/S/ William H. Luck, Jr.

By:

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ATTORNEY IN CHARGE  
FOR PETSMART, INC.

### **CERTIFICATE OF SERVICE**

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that a true and correct copy of the foregoing instrument has been served (by the method indicated below) on this the 2<sup>nd</sup> day of February 2021 to the following:

Mr. Jerry V. Hernandez **By E-Serve**  
10500 Heritage Blvd. #102  
San Antonio, Texas 78216

/S/ William H. Luck, Jr.

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William H. Luck, Jr.